

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DEBBY BARRETT**, on February 18, 2003
at 8 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Debby Barrett, Chairman (R)
Rep. Dee Brown, Vice Chairman (R)
Rep. Larry Jent, Vice Chairman (D)
Rep. Norman Ballantyne (D)
Rep. Arlene Becker (D)
Rep. Sue Dickenson (D)
Rep. Carol Gibson (D)
Rep. Daniel S. Hurwitz (R)
Rep. Hal Jacobson (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)
Rep. Don Roberts (R)
Rep. Clarice Schrupf (R)
Rep. Frank Smith (D)
Rep. Pat Wagman (R)
Rep. Jonathan Windy Boy (D)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Joan Reiman, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:

Posted 2/11/2003: HB 548, HB 550, HB 551 & HB 552.

Posted 2/14/2003: HB 601, HJR 21, HJR 22

Executive Action: HB 515 TABLED. HJR 21, HJR 22, HB 499,
HB 532, HB 548, HB 552 & HB 601 DO PASS.
HB 550 ACTION DEFERRED

HEARING ON HJR 21

Sponsor: REP. PENNY MORGAN, HD 21, Billings

Opening Statement by Sponsor:

REP. MORGAN said this bill sets a moment of remembrance on Memorial Day; it is being done in all states. To coincide with other time zones, it will be 1:00 p.m. Mountain Daylight Time.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REPS. ROBERTS and BECKER asked if this was now done yearly. The sponsor said it was not but they wanted it to be.

Closing by Sponsor:

Sponsor said she does not want this to go to the Consent Calendar; they need to present it on the Floor.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 4.8}

HEARING ON HB 601

Sponsor: REP. RICK RIPLEY, HD 50, including the Missouri River area.

Opening Statement by Sponsor:

REP. RIPLEY said this bill is for Tower Rock to remain state-owned.

Proponents' Testimony:

Cheryl Hutchinson, Hardy Creek, said this accessible site is in a natural state at the Hardy Creek Exit.

Clint Blackwood, Executive Director, Lewis & Clark Bicentennial Commission (LCBC), said the trail is as seen 200 years ago; they need to preserve the legacy.

Arnie Olson, Montana Historical Society (MHS) Director, Member of the LCBC Commission, testified in favor.

Dick Alerts, President of the Lewis & Clark County Chapter, LCBC, said even though this is not in the county, it is significant to support the bill. The spot is historical, where the Missouri River meets the Rockies.

{Tape: 1; Side: A; Approx. Time Counter: 8.7 - 17}

Opponents' Testimony: None

Informational Testimony:

Dean Roberts, Motor Vehicle Division Administrator, was present to answer any questions.

Questions from Committee Members and Responses:

REP. BROWN asked **REP. RIPLEY** if the goal is to have it named as a state park. **REP. RIPLEY** replied the goal was just to preserve the historic site. She asked if he objected if it could be transferred to a group for maintenance. He did object. **REP. LEHMAN** asked if access would be posted by signage in time for summer season. **CHAIRMAN BARRETT** asked **Dean Roberts**, who said this is not his area. **CHAIRMAN BARRETT** said this bill would change two statutes that say Montana Department of Transportation (MDT) cannot transfer the property. She asked who would fund upkeep if the state retains it. The sponsor said he cannot address that.

CHAIRMAN BARRETT asked Mr. Blackwood if some Lewis & Clark sites go to Department of Fish, Wildlife and Parks (FWP) for upkeep. He replied that MDT owns it now and will do the upkeep. **REP. B. OLSON** asked about access. **The sponsor** replied it is off I-90 & the frontage roads, and has a grazing lease which provides weed control at present. **REP. A. OLSON** asked Ms. Hutchinson if MDT planned development. **Ms. Hutchinson** replied that MDT Director Galt had said they would keep it, but they are reluctant to erect signage. The local folks are interested in presentations for the public, parking, interpretive education, etc. She does not know if that can be done by 2005; it is 155 acres and the county leases space at the edge for a dump and propane company.

REP. HURWITZ asked who would be responsible for insurance. **Ms. Hutchinson** said it would continue as it is today. If they put up a gate and caution signage, then liability would be less.

CHAIRMAN BARRETT asked if they had met with FWP. She replied, "Not about Tower Rock."

{Tape: 1; Side: A; Approx. Time Counter: 17.3 - 32}

Closing by Sponsor:

The Sponsor closed.

HEARING ON HJR 22

Sponsor:

REP. RICK RIPLEY, HD 50, including the Missouri River area.

Opening Statement by Sponsor:

REP. RIPLEY said this renames Half Breed Rapids to Pine Island Rapids. It recognizes geographic features named by the Lewis & Clark Corps.

Proponents' Testimony:

Cheryl Hutchinson, Hardy Creek, was in favor.

Clint Blackwood, Executive Director, Lewis & Clark Bicentennial Commission (LCBC), said the term was derogatory and they wanted to include Indians in the Bicentennial Celebration. He said perhaps they should check with the tribes for an Indian name which may be better.

Arnie Olson, MHS Director, Member of the LCBC Commission, testified in favor.

Dick Alberts testified in favor.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

The Sponsor closed.

{Tape: 1; Side: A; Approx. Time Counter: 33.5 - 44}

HEARING ON HB 551

Sponsor: REP. BRENNAN RYAN, HD 41, South Great Falls

Opening Statement by Sponsor:

REP. RYAN said this bill allows volunteer Emergency Medical Technicians (EMTs) to join a volunteer firefighters compensation act for a retirement benefit. This is a vital service; they are the first ones on the scene of accidents.

Proponents' Testimony:

SEN. JIM ELLIOT, SD 36, said recruiting and retention are getting critical. The original fire insurance premium and fire marshall's tax used to pay, but now it goes into the general fund, and retirement funds come out of that. They want to revert to the system as it was in the 1980s and take out the retirement first.

Pat Clinch, President, Montana State Council of Professional Firefighters, testified in favor.

Scott Waldron, Chief, Frenchtown Fire Department, spoke in favor.

Opponents' Testimony:

Melanie Symons, Legal Council, Public Employees Retirement System (PERS), testified the proposal is not funded. As a nonprofit, fire departments could contract with PERS to cover the volunteers. PERS' revenue margin is only \$13,000 and they cannot absorb new members. She would support looking at this during the interim, defining EMT and finding funding. She provided an exhibit.

EXHIBIT (sth36a01)

John Semple, Montana Fire Alliance, testified he is a reluctant opponent. The volunteer firefighters' \$150 retirement would be compromised if funding is not found.

Informational Testimony:

Drew Dawson, DPHHS, Public Health Systems Bureau Chief, said he is available for questions.

Questions from Committee Members and Responses:

REP. SMITH asked what it costs to train EMTs. **SEN. ELLIOTT** was not sure. Most of them are trained by the government or pay their own costs. **REP. SMITH** asked how much training they had. The sponsor said 110 hours initially and 24 hours every two years. **REP. HURWITZ** asked how much money is in the fund. He referred to **Ms. Heffelfinger's** information sheet, which revealed that 38% of the fire insurance premium tax and fire marshall's tax totals \$9-10 million. Five percent of the tax is paid to the general fund and paid back out to firefighter retirement. **Ms. Symons** said they would have to increase the tax to add EMTs. **REP. SMITH** asked if EMTs could pay into PERS. She could not answer that question.

Closing by Sponsor:

SEN. ELLIOTT asked the committee to entertain an interim study if they could not pass the bill.

{Tape: 1; Side: A; Approx. Time Counter: 44.2 - 58}

HEARING ON HB 550

Sponsor: **REP. BRENNAN RYAN, HD 41, South Great Falls**

Opening Statement by Sponsor:

REP. RYAN said this bill is for rural firefighters to join the Fire Fighters United Retirement System (FURS), a voluntary retirement paid by the insurance premium tax since 1899. It is a fairness issue, he said.

{Tape: 1; Side: A; Approx. Time Counter: 58 - 60}

Proponents' Testimony:

SEN. JIM ELLIOTT, SD 36, said he tried to get this through last session. FURS started in 1981; firefighters then were in PERS. FURS requires 20 years' service versus PERS requires 30 years to retire. He would ask to amend to also divert the extra \$9-10 million fire insurance tax, as well as the fire marshall tax.

REP. BOB BERGREN, HD 90, also worked on this last session. If they are injured at work, FURS allows disability pension, versus PERS sends them to workers' compensation.

Scott Waldron, Frenchtown, said the present system is discriminatory. He gave Exhibit 2.

EXHIBIT (sth36a02)

Pat Clinch, President, Montana State Council of Professional Firefighters, said most legislation was for municipal firefighters or volunteers and that paid rural fire fighters came later. He gave Exhibit 3.

EXHIBIT (sth36a03)

Alan Hanson, Assistant Chief, Park County Rural Fire Department, said mutual aid means they work closely with the city, but their coverage is different.

Brett Waters, Chief, Belgrade Rural and City Fire Departments, said there is no disability benefit with PERS. Rural Fire Departments provide more coverage as folks move outside the cities.

John Semple, Montana Fire Alliance, testified in favor.

Melanie Symons, Legal Council, Public Employees Retirement System (PERS), testified this bill is funded. The most important factor is disability coverage. PERS estimates 75% of eligibles will transfer into FURS, paid by the premium tax plus employer and employee contributions. She gave out exhibit 4.

EXHIBIT (sth36a04)

Curt Belts, Assistant Fire Chief, Missoula Rural Fire Department, said in his company only one person retired after 30 years and two more "bought time" after 25 years. They have a closest-station-response agreement with the city.

Bill Winstrom, Chief, Missoula Rural Fire Department, said fire fighters being in different retirement systems becomes an issue with city/county consolidations happening more.

Roger Hagan, Great Falls Airport Fire Fighters Association, said they work for the Air National Guard. He wanted the tax put back into the special revenue account. SEN. TESTER'S SB 61 from this session addresses only Air National Guard Firefighters. He wanted to keep the two bills separate for less confusion.

REP. WINDY BOY, HD 92, said he would explore homeland security money in regard to firefighters. Possibly they could put it all in one bill.

{Tape: 1; Side: A; Approx. Time Counter: 60 - 60.4}

{Tape: 1; Side: B; Approx. Time Counter: 0 - 25}

Opponents' Testimony: None

Informational Testimony:

Mike O'Connor, Executive Director of PERS, stated he was available for questions.

Questions from Committee Members and Responses:

REP. BROWN asked **REP. RIPLEY** if this bill would take \$6 million from the general fund. He deferred to **Ms. Symons**, who said they use the figure that is 32.61% of total payroll for rural fire departments, based on estimates of 75% of them transferring.

REP. BROWN asked **Mike O'Connor, Executive Director of PERS**, if the general fund would take a hit. He said that it would. PERS' fiscal note was different from the one printed. **REP. BECKER** asked **Ms. Symons** to review funding. **Ms. Symons** said of the 2.75% fire insurance tax, 5% goes to the volunteer fire fighters compensation under a previous bill. This bill would look at 32.61% of all FURS payroll. **REP. JENT** asked if it only covered paid employees. She said that was correct. He asked if there is funding; she indicated there was. He asked about the fiscal note. If it passes, there is a new special revenue account; if it does not pass, the money goes to the general fund, she said.

REP. JENT asked what would happen to those PERS funds if fire departments transfer to another retirement system. **Ms.**

Heffelfinger said if they want to, they can buy that time in, or else they can leave it in PERS until they retire from both systems. **REP. HURWITZ** asked if the \$8-10 million in that fund is earmarked now. **Ms. Heffelfinger** said it all goes to the general fund now; this bill would put it into a special revenue account.

{Tape: 1; Side: B; Approx. Time Counter: 25 - 35}

Closing by Sponsor:

REP. RIPLEY said that the disability and survivor benefits were very important.

HEARING ON HB 552

Sponsor: **REP. BRENNAN RYAN, HD 41, South Great Falls**

Opening Statement by Sponsor:

REP. RYAN said this bill would allow corporate tax filers to get the same automatic six-month extension as others. The law changed in 1995 and inadvertently left out a small number of groups; this would correct that oversight.

Proponents' Testimony:

Shona McHugh, Department of Revenue, said title 15, chapter 31 would be consistent with this.

Holly Franz, MT CPA Association, said the cost is zero.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. BROWN asked why they need the bill if few are affected. **REP. RYAN** said it is housekeeping; if it is automatic, they should not have to apply for it. This gets rid of an administrative burden. **CHAIRMAN BARRETT** asked what happened in 1995. He deferred to **Ms. McHugh**, who said they gave the extension in order to automate it to a paperless extension form, which has been a boon to all concerned.

Closing by Sponsor:

Sponsor closed.

HEARING ON HB 548

Sponsor: **REP. LARRY JENT, HD 29**

Opening Statement by Sponsor:

REP. JENT said this bill establishes a checking account for the federal money from Help America Vote Act (HAVA). Officials in Washington said they must do it this way.

Proponents' Testimony:

Ms. Janice Doggett, Chief Legal Counsel, Secretary of State, said she asked the budget office, and if money is appropriated, they could spend it this year.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor: Sponsor closed.

EXECUTIVE ACTION ON HJR 22

Motion/Vote: REP. BROWN moved HJR 22 DO PASS. On a voice vote, motion carried 19-0. Proxy votes were received from REPS. YOUNKIN, DICKENSON, JACOBSON and SMITH.

Motion/Vote: REP. ALAN OLSON moved HJR 22 ONTO THE CONSENT CALENDAR. On a voice vote, motion carried 19-0. Proxy votes were received from REPS. YOUNKIN, DICKENSON, JACOBSON and SMITH.

EXECUTIVE ACTION ON HJR 21

Motion/Vote: REP. ALAN OLSON moved HJR 21 DO PASS. On a voice vote, motion carried 19-0. Proxy votes were received from REPS. YOUNKIN, DICKENSON, JACOBSON, and SMITH.

REP. SCHRUMPF left the meeting at this time.

EXECUTIVE ACTION ON HB 548

Motion/Vote: REP. ALAN OLSON moved HB 548 DO PASS. On a voice vote, motion carried 19-0. Proxy votes were received from REPS. YOUNKIN, DICKENSON, JACOBSON, SCHRUMPF and SMITH.

Motion/Vote: REP. LENHART moved HB 548 ONTO THE CONSENT CALENDAR. On a voice vote, motion carried 19-0. Proxy votes were received from REPS. YOUNKIN, DICKENSON, JACOBSON, SCHRUMPF and SMITH.

EXECUTIVE ACTION ON HB 518

Motion: REP. A. OLSON moved HB 518 DO PASS. CHAIRMAN BARRETT said they were waiting for cost sheets.

Motion was withdrawn.

EXECUTIVE ACTION ON HB 601

Motion: REP. BALLANTYNE moved HB 601 DO PASS.

Discussion:

REP. BROWN said FWP was not represented here and questions need to be answered; the sponsor would not allow a nonprofit to run Tower Rock. She asked who would pay to cut weeds, put up signs, etc. **REP. A. OLSON** said this is state property and they only want to transfer it from one department to another. **REP. LENHART** said if it became a park, the grazing lease takes care of weeds. **REP. BALLANTYNE** said they don't want to allow it to come up for auction, but to hold it in the state. **REP. B. OLSON** said he fears the state would lose control and that there must be some rent received from the dump and propane sales.

REP. GIBSON said a nonprofit would be okay but what happens if they want to sell in 30 years; it is risky to hand over unless it is just temporary. The FWP Committee is catching heat for not maintaining parks. **REP. YOUNKIN** told **REP. B. OLSON** the dump and propane dealer are county-leased; the state has owned this land since the 1960s. **REP. LEHMAN** said the dump is right by the exit, but that it is contained. **REP. HURWITZ** said more traffic means restrooms are needed. **REP. A. OLSON** said this bill does not designate this land as anything, just says the state cannot sell. **REP. LEHMAN** said it is hard to find it. **REP. SMITH** said a volunteer organization could maintain it. **CHAIRMAN BARRETT** liked that idea but asked, who and how. She said FWP would be the agency to do it. They would need an Environmental Impact Statement (EIS), parking, toilets, etc; but it all needs to be spelled out.

{Tape: 1; Side: A; Approx. Time Counter: 50 - 66}

REP. A. OLSON asked if she would accept a conceptual amendment that it may not be sold or transferred. **CHAIRMAN BARRETT** said MDT is not in that business and it could become a can of worms. **REP. BROWN** said that is why she asked sponsor for amendments to allow local citizens a chance to take it over, develop and fund it. **REP. LENHART** said to look at the bill's title. **REP. BALLANTYNE** said to just let FWP worry about funding. **CHAIRMAN BARRETT** said if the state were to sell it, they would likely offer the property to adjacent property owners first. This would violate two statutes and she will vote no.

REP. LEHMAN asked **Ms. Heffelfinger**, who said the department may sell, exchange or trade the interest in the property. He retorted that those provisions would not apply here. She countered that it would be retained by the state. **CHAIRMAN BARRETT** said this bill is tying it to the state forever. An EIS costs \$350,000 and it would be maintained from the general fund. **REP. WINDY BOY** said his tribe could buy it. **REP. BROWN** asked why they could not

let an interested group do the whole thing. **REP. ROBERTS** said it does not need improvements; there are restrooms on the frontage road. **REP. DICKENSON** said it had been mentioned as a rest stop but the residents resisted, and it would have needed repair.

Vote: On a voice vote, motion carried 16-3. Voting no were **CHAIRMAN BARRETT**, **REPS. BROWN** and **LEHMAN**. **REP. SCHRUMPF** voted by proxy.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 16}

EXECUTIVE ACTION ON HB 552

Motion: **REP. A. OLSON** moved HB 552 DO PASS.

Discussion:

REP. BROWN said we do not need this bill. **REP. YOUNKIN** said that it should have gone to Tax Committee. **CHAIRMAN BARRETT** said it is at no cost, and it is a cleanup and fairness bill.

Vote: On a voice vote, motion carried 19-0. **REP. SCHRUMPF** voted by proxy.

Motion/Vote: **REP. A. OLSON** moved HB 552 TO the CONSENT CALENDAR. On a voice vote, motion carried 19-0.

{Tape: 1; Side: B; Approx. Time Counter: 16 - 20}

EXECUTIVE ACTION ON HB 532

Motion/Vote: **REP. BECKER** moved HB 532 DO PASS. On a voice vote, motion carried 19-0 with **REP. SCHRUMPF** voting by proxy.

Motion/Vote: **REP. A. OLSON** moved HB 532 ONTO THE CONSENT CALENDAR. On a voice vote, motion carried 19-0 with **REP. SCHRUMPF** voting by proxy.

{Tape: 1; Side: B; Approx. Time Counter: 21 - 22}

EXECUTIVE ACTION ON HB 541

Motion: **REP. JENT** moved HB 541 DO PASS.

Discussion:

CHAIRMAN BARRETT said she wants more information.

Motion was withdrawn.

{Tape: 1; Side: B; Approx. Time Counter: 22 - 23}

EXECUTIVE ACTION ON HB 515

Motion: REP. BROWN moved HB 515 DO PASS.

Discussion:

REP. BROWN said this bill is well-intentioned, but the author did not have enough information about audits. The work can be done now without this bill.

Motion/Vote: REP. BROWN moved HB 515 BE TABLED. On a voice vote, motion carried 18-1 with REP. BECKER voting no. REP. SCHRUMPF voted by proxy.

{Tape: 1; Side: B; Approx. Time Counter: 23 - 24}

EXECUTIVE ACTION ON HB 499

Motion: REP. ROBERTS moved HB 499 DO PASS.

Discussion:

REP. YOUNKIN said sponsor had requested a conceptual amendment. Ms. Heffelfinger said they do not need the amendment. REP. A. OLSON said the word "quarantine" mentioned on Page 3 made him uneasy. REP. YOUNKIN said they will do what they are doing now, but proactive measures will allow future actions. He said the Disaster and Emergency Services (DES) folks can be power-hungry. REP. ROBERTS said the Center for Disease Control (CDC) is looking out for unusual diseases; they need to stay ahead of the curve. They may have to override rights of folks in order to quarantine something like Ebola. REP. B. OLSON said they have done that with smallpox. REP. BALLANTYNE said at times of crises they wanted DES to keep them safe, even if they are on a power trip.

REP. DICKENSON said a lot of coordination will take place between local jurisdictions and the state. CHAIRMAN BARRETT referred to the information sheet given at the hearing. She said that it sounded like an extension of homeland security, which the governor is working on, but this DPHHS bill is from the bottom up. She questioned why the governor was not behind it. REP. JENT said DES gave an interim briefing, and they have the lead roll in homeland security.

Vote: On a voice vote, motion carried 17-2 with REPS. BROWN and A. OLSON voting no. REP. SCHRUMPF voted by proxy.

{Tape: 1; Side: B; Approx. Time Counter: 24 - 39}

EXECUTIVE ACTION ON HB 550

Motion: REP. JENT moved HB 550 DO PASS.

Discussion: REP. BROWN said it's the right thing to do, but asked why it did not pass previously. CHAIRMAN BARRETT mentioned funding. REP. BROWN stated they now have the funding but \$750,000 is a big issue this session and maybe the next session could look at it. REP. HURWITZ said it puts FURS and PERS together. Volunteers still would not get paid, though. REP. JENT said these are all paid workers.

REP. BALLANTYNE said in light of 9-11-01, they should put the money up front. REP. GIBSON said the firefighters work side by side, yet one group is protected while one is not; that is not fair. REP. LENHART agreed those people need disability coverage.

CHAIRMAN BARRETT asked Ms. Heffelfinger if the 2001 Session addressed this benefit to either group. Ms. Heffelfinger replied that this bill did not increase benefits, but said that the fiscal note is where "it breaks down." She said funding is statutorily required as a percent of salary. The funding is there, but the question is whether it goes to the general fund first. Now the firefighters want the special revenue fund to be credited first; the net impact remains the same.

REP. JENT stated concern about a tax on certain types of insurance to pay for FURS; it is taxing people for a specific purpose, but the money only goes to some of the firefighters. He said he will make an exception and vote yes on this. It will reduce the ending general fund balance. REP. WINDY BOY urged waiting on this and HB 551. CHAIRMAN BARRETT said this is an appropriations bill, we do not have to pass it before transmittal. She asked for a motion to withdraw.

Motion was withdrawn.

ADJOURNMENT

Adjournment: 10:30 A.M.

REP. DEBBY BARRETT, Chairman

JOAN REIMAN, Secretary

DB/JR

EXHIBIT (sth36aad)